



# Ethics News

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### Governor Issues New Ethics Directives

On April 27, Governor Joe Kernan announced several changes to Indiana State Government ethics policies. Through executive order, these changes will go into effect July 5, 2004. The Governor outlined the new standards in executive orders that follow:

**#04-09:** The Office of Chief Investigator will be created, which will be responsible for developing and implementing fraud prevention best practices for all agencies, as well as coordinating the resources and efforts of agencies' internal investigators. The chief investigator will be appointed by and report to the governor.

**#04-11:** Individuals who lobby the Executive Branch will be required to register and report their lobbying activities to the Indiana Department of Administration, similar to the existing requirements for legislative lobbyists. In this case, in addition to the executive order, DOA must propose rules by July 5, 2004, and the final rules will likely be issued six to nine months after they are proposed.

**#04-08:** Vendors and lobbyists will no longer be permitted to provide any gifts, meals, or similar items to Executive Branch employees if they do business with the employee's agency. Nor can these employees *accept* any gifts, meals or similar items from vendors or lobbyists. (Executive Branch employees include those individuals in positions within the governor's or lieutenant governor's offices or any agency that falls within either official's responsibility. It also includes employees under all state offices and state officers.) All vendor agreements with state government will contain provisions allowing the agency to terminate its contract with any vendor who violates its ethical obligations.

**#04-10:** For one year after leaving their state government position, senior-level Executive Branch employees (i.e. agency heads and officials working in the governor's and lieutenant governor's offices) will be prohibited from contacting their counterparts in state government on behalf of a client. In essence, this will address any public perception that a "revolving door" exists where former state employees have greater access to Executive Branch employees than anyone else.

**#04-12:** All new Executive Branch employees will be required to participate in initial ethics training, and refresher ethics training for all state employees will be required every two years.

Training sessions on the ethics changes will be held in June for agency heads, ethics officers and executives. Notice of the training dates will be e-mailed to the above. Ethics trainers will be notified when the new "blue book" and new video are ready. Employees may continue to sign up for ethics classes at <http://www.in.gov/ethics/training/class/index.html>.

## Recent Enforcement Proceedings

The State Ethics Commission approved the following reports regarding two state employees who had waived their right to a public hearing, and entered into agreed settlements.

### Case #03-C-11

On April 8, 2004, the State Ethics Commission approved an agreed settlement with a state employee who had violated [40 IAC 2-1-6](#) (gifts) and [40 IAC 2-1-9\(a\)](#) (conflict of interest). In the settlement, the employee agreed to resign his position as Executive Director of the Intelenet Commission. As the executive director of Intelenet, the former employee accepted meals paid for by companies that had a contract or other business relationship with Intelenet. The total value of the meals exceeded \$400.00.

The former employee further agreed in the settlement that the employment of his unemancipated daughters as summer interns by an Intelenet vendor constituted conflicts of interest.

In addition to his resignation from his state job, the former employee agreed not to seek or accept employment in the Executive Branch of Indiana State Government for a period of ten (10) years from April 8, 2004.

The former employee was fined a total civil penalty of Ten Thousand Dollars (\$10,000.00).

### Case #03-C-12

On April 8, 2004, the State Ethics Commission approved an agreed settlement with a state employee who had violated [40 IAC 2-1-9\(g\)](#) by engaging in non-state activities during working hours. In the settlement, the employee acknowledged that she had occasionally claimed on her official state time sheet that she had worked 7.5 hour days, when in fact, she had not been present in her office and was not engaged in any state business during those alleged working hours.

The employee further acknowledged that occasionally she had worked partial days, fewer than 7.5 hours, but claimed on her A-4 that she worked a full day.

The Commission levied a civil penalty of \$550.00 on the employee. She agreed to refrain from participating in non-state business during state working hours and to accept a written reprimand from her supervisor.

### Clarification

In the March 2004 issue of Ethics News, (see, [Ethics News #35, Case #03-C-9](#)) it was reported that a state employee had been sanctioned for among other things, using her state agency's toll-free telephone line for personal use. A reader questioned why the employee could not make personal calls. In addition to what was reported in the article, the Commission was able to determine that the employee was conversing on a regular basis with friends and family from out of state. The Commission also determined the approximate cost to the state for those long-distance phone calls. The calls were significant in their duration and occurred during normal state business hours.

## Staff Advice

This article briefly reviews questions recently addressed by the Ethics Commission staff. The advice is not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your [agency Ethics Officer](#) or the State Ethics Commission.

**NOTE:** *Please be advised that the opinions in these answers merely interpret and apply the State Ethics Commission's laws, regulations, and policies. The fact scenarios presented in these questions could possibly violate other agency laws, regulations, rules, or policies.*

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**Q.** What does the term business relationship with a state agency mean?

**A.** "Business relationship" means dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:

- (A) a pecuniary interest in a contract or purchase with the agency; or
- (B) a license or permit requiring the exercise of judgment or discretion by the agency.

**Q.** A state hospital wants to accept a \$400 cash grant from a drug company to be used to build the hospital's training library. The company puts no strings on the use, as long as it is for medical library materials. The hospital will probably buy video tapes on workplace violence. Prescription drugs from this company are used in the hospital, but since the gift would be for general use, there is no nexus between a specific gift recipient and drug buying discretion. Is this OK?

**A.** Because the grant is basically a gift to the hospital, as opposed to a specific state employee, it is acceptable.

**Q.** I am a journeyman electrician employed by a state hospital and would like to approach a contractor who is revamping the hospital's entire fire alarm system about a job. I've had nothing to do with procuring, negotiating, or executing the contract with the contractor. In addition, I do not supervise work done under the contract (in fact, I do not interact with the contractor at all). Is there any problem?

**A.** From what you've told me, I can think of nothing under the State Ethics Code that prevents you from approaching the contractor on your own time about a job. Please be aware that it is a conflict of interest for you as a state employee to participate in any decision concerning an organization with which you are negotiating for a job. Therefore, if you approach the contractor about a job, make sure that you screen yourself from any future involvement with the contractor.

**Q.** I've hired an IT employee about a year ago, and I want to know if it's OK under the ethics rules to provide this employee with books and materials that will allow him to become A+ certified in Microsoft software.

**A.** This is perfectly acceptable as an expense related to professional development. The employee could theoretically leave state government for the private sector, where the certification could benefit him at the state's expense. But this is a risk the state faces everyday, and it cannot be prevented.

**Q.** The superintendent of a correctional facility would like to reward employees with a perfect six-month attendance record. These employees would be provided a free car wash and wax at the facility. The wash and wax would be provided by offender workers. The incentive would appear to be de minimis and would provide a great morale boost for the facility's exceptional employees. Can this be done?

**A.** Please know that this does not constitute additional compensation for doing your state job under [40 IAC 2-1-9\(b\)](#). In fact, this poses absolutely no problems under the Ethics Code.

**Q.** A state manager and his staff just finished a very intricate design project. The manager would like to take his staff out to lunch to celebrate. Is this OK under the gift rule?

**A.** This is fine. And it's not considered to be additional compensation under [40 IAC 2-1-9\(b\)](#).

**Q.** Can a supervisor base a promotion decision on whether employees have performed volunteer work?

**A.** Under [40 IAC 2-1-9\(g\)](#), a state employee cannot direct others to engage in work other than the performance of official duties during working hours. Accordingly, a supervisor cannot require a state employee to do volunteer work (e.g., United Way). However, a supervisor may ask employees up for promotions if they did volunteer for work related projects. It is appropriate to promote people who go the extra mile to get their regular work done so that they can help out with other projects that need to be done.

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## Who's to Blame?

What happens when a state employee who has never had ethics training violates an ethics rule? Who's to blame- the employee or the employee's agency? The answer is both. It is the employee who is accountable for his/her actions and it is the responsibility of each agency to provide training for the employee.

Agencies are required by the Ethics Commission to provide orientation to new employees. Orientation consists of giving employees a copy of the booklet, "Indiana State Ethics Laws," or access to the booklet on the Commission's Web site. A ten-minute video, which is on the Web site, as well, has been given to each agency for employees to view. (Note: Governor Kernan's executive order #04-12 now mandates refresher training every two years.)

Agencies also may refer employees to classes taught by the Ethics Commission staff or request that Commission staff come to their agencies. So far, this year, agencies requesting training from the Commission are: Adjutant General's Office, Attorney General's Office, Department of Administration, Department of Correction, Department of Health, Department of Revenue, FSSA, Indiana Civil Rights Commission, Office of the Commissioner of Agriculture, SEMA, State Library, and State Personnel.

To request training for your agency, call Mary Hill at 232-3850. To sign up for an ethics class, click here: [Schedule of Ethics Classes](#).

## Ladies and Gentlemen, Check Your Gift Rule!

Going to the race? For information on what you can and cannot accept, see, [Gift & Entertainment Guidelines for State Employees.](#)



### Ethics Classes Open

#### **Ethics Orientation**

June 15, August 24,  
October 9, December 7  
(10:00 - 11:00 a.m.)

#### **Supervisors and Managers**

June 16, August 25,  
October 20, December 8  
(10:00 - 12:00 p.m.)

Classes are in the State Conference  
Center or Training Center  
Indiana Government Center South  
402 W. Washington St., Indianapolis, IN

**Please check directory on day of class  
for room number.**

To register, call (317) 232-3850 or visit our  
Web site at [www.ethics.IN.gov](http://www.ethics.IN.gov)

### **Change . . .**

*has considerable psychological impact on the human mind.  
To the fearful it is threatening because it means that things  
may get worse. To the hopeful it is encouraging because  
things may get better. To the confident it is inspiring because  
the challenge exists to make things better.*

King Whitney Jr.  
President, Personnel Laboratory Inc.

**C**ommission meetings are open to the public and held the  
second Thursday of the month. Normal starting time is 10:00 a.m.